

## Wu, Jennifer

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**From:** Wu, Jennifer  
**Sent:** Tuesday, May 13, 2014 12:15 PM  
**To:** SEEDS Joshua  
**Cc:** Henning, Alan; Labiosa, Rochelle; FOSTER Eugene P; STURDEVANT Debra; BOROK Aron  
**Subject:** RE: PCW application

Josh – this is really helpful. Thanks so much. I just left a cryptic follow-up voicemail with you, so maybe we can connect later today or in the next couple of days. Thanks - Jenny

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**From:** SEEDS Joshua [mailto:SEEDS.Joshua@deq.state.or.us]  
**Sent:** Tuesday, May 13, 2014 11:58 AM  
**To:** Wu, Jennifer  
**Cc:** Henning, Alan; Labiosa, Rochelle; SEEDS Joshua; FOSTER Eugene P; STURDEVANT Debra; BOROK Aron  
**Subject:** RE: PCW application

Jenny,

I made some changes to the numbered sections below. PCW does not just apply to T&E species, as far as where the point of compliance is measured. It applies "where salmon, steelhead, and bull trout are present" which we are at this point interpreting to be current and historic habitat because of the variable nature of whether habitat is occupied at any particular point in time. We also do not want to disincentivize the removal of artificial barriers such as culverts.

While the PCW exception conditions include T&E and critical habitat ((A) & (B)), we expect that in most cases proving that water is not needed to meet downstream criteria ((C)) will be a difficult proposition, and our assumption is that the cold water *is* needed to meet downstream criteria unless a robust analysis shows otherwise.

With that in mind:

- 1) Wherever salmon, steelhead, or bull trout (SSBT) species exist presently or historically based on ODFW distribution maps;
- 2) Additional areas where SSBT species exist historically up to a natural barrier where such areas are excluded from the current ODFW maps;
- 3) Additional areas upstream of where SSBT species exist currently or historically, such that riparian-adjacent harvests upstream of these areas will not result in more than a 0.3C increase downstream where SSBT species are present;
- 4) Rules will also apply to where T&E species or their critical habitat are present. Current and historic SSBT habitat includes and covers a greater extent than T&E species and critical habitat.

Basically, we would have three stream groups: SSBT & required upstream extent; "cutthroat only" (gamefish present but no SSBT and farther upstream than required distance); and non-fish streams.

We are approaching this from a standpoint of minimizing heating at the level of individual activities rather than doing a cumulative effects approach. The complexity for a cumulative effects approach is too high to be a reasonable approach at this point.

I hope this helps.

Thanks,  
Josh

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From: Wu, Jennifer [Wu.Jennifer@epa.gov]  
Sent: Friday, May 09, 2014 12:07 PM

To: SEEDS Joshua  
Cc: Henning, Alan; Labiosa, Rochelle  
Subject:

Hi Josh - thanks again on the helpful conversation on where the Riparian Rule applies and other things we talked about on the Rule. I know we'll be talking more really soon.

This is where we heard that DEQ and ODF would apply the Riparian Rule, and we want to make sure we have a clear understanding of how DEQ and ODF are proceeding:

- 1) Wherever threatened and endangered (T&E) species exist or could exist based on ODFW distribution maps;
- 2) Additional areas where T&E species exist up to a natural barrier if such areas were excluded from the original ODFW maps;
- 3) Additional areas upstream of where T&E species exist or have existed, such that riparian cuts upstream of these areas will not result in more than a 0.3C cumulative impact downstream where T&E species are present;
- 4) Rules will also apply to where there is critical habitat.

Please edit or clarify the above where needed. Do they have plans to write down their methods or otherwise capture them? It sounds like they are creating maps to discuss with the public. Is that the case?

Thanks, Josh! I have to take off now, but I'll probably give you a call early next week (or Alan will). - Jenny